

Article - Health - General

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§2-604.

(a) (1) (i) A person may file a civil action on behalf of the person and the State in a court of competent jurisdiction within the State against a person who has acted or is acting in violation of § 2-602(a) of this subtitle.

(ii) A civil action filed under subparagraph (i) of this paragraph shall be brought in the name of the State.

(2) A person filing an action under this section may seek:

(i) The penalties provided under § 2-602(b) of this subtitle;
and

(ii) Subject to the guidelines set forth in § 2-605(a)(4) of this subtitle, court costs and attorney's fees.

(3) (i) The person shall serve on the State a copy of the complaint and a written disclosure of substantially all material evidence and information that the person possesses, in accordance with the provisions of Title 2 of the Maryland Rules for serving process on the State.

(ii) 1. The complaint shall be filed in camera and shall remain under seal for at least 60 days.

2. The complaint may not be served on the defendant until the complaint is unsealed and the court orders the complaint served.

3. Within 60 days after the State receives the complaint and the material evidence and information, the State may elect to intervene and proceed with the action.

(4) (i) For good cause shown, the State may move the court for extensions of the time during which the complaint remains under seal under paragraph (3)(ii)1 of this subsection.

(ii) Any motions made under subparagraph (i) of this paragraph may be supported by affidavits or other submissions in camera.

(5) (i) The defendant may not be required to answer a complaint filed under this section until after the complaint is:

1. Unsealed and ordered by the court to be served; and
2. Served on the defendant in accordance with Title 2 of the Maryland Rules.

(ii) When answering a complaint filed under this section, a defendant shall follow the time frames and other provisions for filing answers to a complaint as required under Title 2, Chapter 300 of the Maryland Rules.

(iii) During the period in which the complaint is under seal, if the State's investigation reveals that the act, transaction, or occurrence that gave rise to the alleged violation of this subtitle is reasonably likely to be continuing, the State shall notify the defendant as soon as practicable without jeopardizing the course and conduct of the State's or the federal government's investigation of the violation, compromising the development of evidence, or violating any State or federal law.

(6) Before the later of the expiration of the 60-day period during which the complaint remains under seal under paragraph (3)(ii)1 of this subsection or any extension of the 60-day period obtained under paragraph (4) of this subsection, the State shall:

(i) Intervene and proceed with the action in a court of competent jurisdiction within the State; or

(ii) Notify the court that it will not intervene and proceed with the action.

(7) If the State does not elect to intervene and proceed with the action under paragraph (6) of this subsection, before unsealing the complaint, the court shall dismiss the action.

(8) If a person initiates an action under this section, no person other than the State may intervene in the action or initiate a related action based on the facts underlying the pending action.

(b) (1) If the State intervenes and proceeds with the action under subsection (a)(6)(i) of this section:

(i) The State shall have the primary responsibility for proceeding with the action and may not be bound by any act of the person who initiated the action; and

(ii) Subject to paragraphs (3) through (6) of this subsection, the person who initiated the action may continue as a party to the action.

(2) (i) During an investigation by the State conducted either independently or in conjunction with a civil action filed under this subtitle, the Attorney General shall have the same rights of discovery as a civil litigant in the circuit court under Title 2, Chapter 400 of the Maryland Rules.

(ii) A person from whom the Attorney General seeks discovery shall be considered a party under Title 2, Chapter 400 of the Maryland Rules.

(3) (i) Notwithstanding the objections of the person initiating the action, the State may elect at any point to withdraw its intervention as a party to the action.

(ii) If the State elects to withdraw as a party to the action:

1. The State shall notify the court and the party initiating the action; and

2. The court shall dismiss the action.

(4) Notwithstanding the objections of the person initiating the action, if the court determines after a hearing that a proposed settlement is fair, adequate, and reasonable under the circumstances, the State may settle a civil action filed under this section.

(5) On motion of the State or the defendant or on the court's own motion, the court may impose limitations on the participation of the person initiating an action under this section if:

(i) The State shows that the person's unrestricted participation in the action would:

1. Interfere with or unduly delay the State in its pursuit of the civil action; or

2. Be repetitious, irrelevant, or harassing to the defendant; or

(ii) The defendant shows that unrestricted participation by the person initiating the action would harass the defendant or cause the defendant undue burden or unnecessary expense.

(6) Limitations imposed by the court under paragraph (5) of this subsection may include:

(i) A limitation on the number of witnesses the person may call to testify;

(ii) A limitation on the length of the testimony of witnesses called by the person;

(iii) A limitation on the person's cross-examination of witnesses; or

(iv) A limitation on the participation of the person in the litigation.

(c) (1) Instead of proceeding with a civil action filed under this subtitle, the State may pursue any alternative remedy available to the State, including any appropriate administrative proceeding to determine a civil money penalty.

(2) If the State seeks an alternative remedy in another proceeding after intervening in a civil action filed under this section, the person initiating the action shall have the same rights in the alternative proceeding as the person would have had if the civil action had continued under this section.

(3) (i) A finding of fact or conclusion of law made in any alternative proceeding that has become final shall be conclusive on all parties to an action filed under this subtitle.

(ii) For purposes of subparagraph (i) of this paragraph, a finding or conclusion is final if:

1. It has been finally determined on appeal to the appropriate court of the State;

2. All time for filing the appeal with respect to the finding or conclusion has expired; or

3. The finding or conclusion is not subject to judicial review.

(d) (1) On a showing in camera by the State that certain actions of discovery by the person initiating the action would interfere with the State's

investigation or prosecution of a criminal or civil matter arising out of the same facts, the court may stay the discovery for a period of not more than 60 days.

(2) The court may extend the 60-day period on a further showing in camera that:

(i) The State has pursued the criminal or civil investigation or proceeding with reasonable diligence; and

(ii) Any proposed discovery in the civil action will interfere with the ongoing criminal or civil investigation or proceeding.

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